

Attachment 1

Received 09/05/2002 01:52PM in 02-10 on line 021 for 2333 WORKSRVZ printed 80088383 on 09/05/2002 01:54PM * Pg 3/6
SEP-05-2002 THU 02:04 PM DE PSC FAX NO. 1 P. 03/06

MEMORANDUM

To: Chair and Commissioners
Public Service Commission

From: Gary A. Myers
Deputy Attorney General

Re: Verizon Delaware Inc.'s Letter of August 30, 2002 Announcing Reductions
In its Originating and Terminating Unbundled Switching UNE Rates,
PSC Dckt. No. 96-324

Date: September 5, 2002

On August 30, 2002, Verizon Delaware Inc. ("VZ-DE") submitted a letter to the Commission announcing that, effective on that date, Verizon had chosen to reduce by 31% the unbundled UNE switching rates approved by the Commission in Phase I of Docket No. 96-324. These rate reductions were apparently precipitated by actions occurring during the FCC's consideration of VZ-DE's application for interLATA authority from Delaware. In comments filed with the FCC, AT&T and Worldcom asserted that VZ-DE's unbundled switching rates were not TELRIC compliant. In addition, those opponents also argued the Delaware's "non-loop" UNE rates (which include unbundled switching) exceeded a New York-based UNE-platform benchmark by 40% to 50%.¹ VZ-DE's reductions are limited to originating and terminating switch usage (minutes of use) rates. A copy of VZ-DE's letter is enclosed.

As VZ-DE's submission indicates, the rate reductions change the rates the Commission set in 1997 in PSC Dckt. No. 96-324. That proceeding began life, and continues to live, as the PSC's review of an Statement of Generally Available Terms filed by VZ-DE. Thus it would seem that the change in switching rates offered by VZ-DE would now require some sort of approval by the Commission. See, e.g., 47 U.S.C. § 252(f)(2).

¹"Non-loop" elements include a line port, end office switching usage, common (or shared transport), and signaling. The FCC's benchmarking procedure - used when the FCC suspects that the state commission ignored or significantly misapplied TELRIC principles - compares loop and aggregated non-loop rates in the particular State to similar rates in a "comparative" jurisdiction where interLATA authority has already been approved. Verizon, and the FCC, typically use New York rates as the comparative benchmarks. Under the process, the "costs" for loops and non-loop elements in the particular State are compared to the costs in New York. Such costs are derived (on a State-wide weighted-average basis) by using, with some modifications, the FCC's universal service costing model. Then the two States' weighted average rates are compared to see whether the percentage difference in loop and non-loop rates in the particular State - as compared to the New York rates - does not exceed the percentage difference in costs between the two States.

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I recommend that the Commission allow the switching rate reductions outlined in VZ-DE's letter of August 30 to take effect (47 U.S.C. § 252(f)(3)(B)) and defer the final review of these new switching rates until the FCC issues its decision on VZ-DE's application for interLATA authority. That decision is due by September 25 and may provide the FCC's analysis of why such rate reductions are necessary, appropriate, or just simply welcomed.

After the FCC's decision, VZ-DE should make a formal application to amend or alter the prior switching rates approved by the PSC. After such a filing, the PSC can consider such a formal application. In so doing, the Commission might want to explore whether, in light of any approved switching rate reductions, other rates that incorporate the prior switching activities (such as perhaps reciprocal compensation) might also require some modification.

In sum, the Commission should enter an Order (at the September 24 meeting) allowing the switching rate reductions to go into effect on the basis of the August 30 letter.² VZ-DE can then, right after the FCC enters its decision on VZ-DE's interLATA application, file a more formal application to revise the PSC's earlier rate orders to have the unbundled switching rates conform to the rates set forth in its August 30 letter.

Enclosure (VZ-DE letter of Aug. 30, 2002)

cc: Bruce Burdett, Exec. Dir. (w/o enc.
Service List in PSC Dckt. No. 96-324, Phase II
(by facsimile & w. enc.)

²Until the Commission enters such an Order, VZ-DE can offer its reduced rates as a "negotiated" rate to the other carriers.

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DELAWARE P.S.C.


August 30, 2002

Via Hand Delivery
Ms. Karen Nickerson
Commission Secretary
Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19904

**Re: In the Matter of the Inquiry Into Verizon Delaware Inc.'s Compliance
With the Conditions Set Forth in 47 U.S.C. § 271(c), Docket No. 02-001**

Dear Ms. Nickerson:

In Phase I of its proceeding setting rates for Verizon Delaware Inc.'s (Verizon DE's) Unbundled Network Elements, the Commission adopted rates for unbundled switching using the TELRIC methodology.¹ Certain parties have raised concerns about Verizon DE's switching rates in the proceeding before the Federal Communications Commission to consider Verizon's application for long distance authority in Delaware.

While Verizon DE continues to believe that its UNE switching rates are TELRIC-compliant, in order to resolve those concerns, Verizon DE is reducing its unbundled switching rates 31%. Specifically, Verizon is reducing its originating unbundled switching rate from \$.003634 to \$.002507 and its terminating unbundled switching rate from \$.001927 to \$.001330. These rate reductions will be effective immediately.

These new switching rates will be applicable to all CLECs operating in Delaware and shall remain in effect until the Commission otherwise modifies the rates.

All CLECs will be notified of this change by a change management notice that will be distributed via E-MAIL.

¹In the Matter of the Application of Bell Atlantic-Delaware, Inc. for Approval of Its Statement of Terms and Conditions under Section 253(f) Of The Telecommunications Act of 1996, PSC Docket No. 96-324, Findings, Opinion and Order No. 4542, dated July 8, 1997 ("Phase I Order"). This portion of the Commission's Phase I was affirmed on appeal by the United States District Court for the District of Delaware. *Bell Atlantic-Delaware, Inc. v. McMahon*, 80 F. Supp. 2d 218 (D. Del. 2000).

Sep-05-02 15:25 From-AT&T LAW DEPARTMENT
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Please do not hesitate to contact the undersigned should the Commission require further information about this matter.

Very truly yours,

Julie Conover/BUN

Julia A. Conover

JAC/meb
Enc.

cc: Via E-Mail and UPS Overnight Delivery
Attached Certificate of Service